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RECENT MASSACHUSETTS LABOR LEGISLATION*

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In her monograph on Massachusetts Labor Legislation, published in 1901, Dr. Sarah Scoville Whittelsey brought the story of the development of the labor code of this state down to the end of the legislative year of 1900. Since then there have been comparatively few important enactments. Most of this later labor legislation is supplementary and amendatory, extending or reinforcing existing provisions of law. The educational requirements applying to employed children have been strengthened; the legal work-time for women and minors has been reduced; the regulations concerning sanitation and other matters have been extended, and the system of factory inspection has been improved. Much of the new legislation relates to subjects of minor importance. Perhaps the most notable additions to the labor code are the acts establishing free employment bureaus, providing for the extension of industrial education, and instituting a system of savings bank insurance.

I. EXTENDING AND AMENDING LEGISLATION

I. *Child Labor*

The age limit for the employment of children has not been raised since 1898, when it was fixed at fourteen years.¹ This limit applies to mercantile establishments, as well as to factories and workshops. The educational restrictions as to the employment of children between the ages of fourteen and sixteen years have been stiffened considerably. By the legislation of 1898 age and schooling certificates were required as a condition of employment in the case of all children under sixteen years of age. The employer is required to keep such certificates on file and accessible to the truant officers and factory inspectors.² By an amendment of 1905 the additional

*This paper is based on material collected in the course of an investigation undertaken for the Carnegie Institution at Washington, Division of Economics and Sociology.

¹Revised Laws, Chapter 106, Section 28.

²Revised Laws, Chapter 106, Section 29.

requirement was imposed that no child under sixteen years of age should be employed who could not produce a certificate attesting his ability to read and write simple sentences in the English language.³ That is, prior to 1905 the mere production of a certificate of age and school attendance was sufficient to legalize the employment of a child under sixteen years of age; the amended restriction calls for a certificate of ability to read and write, not merely of attendance at school. Not only are children between the ages of fourteen and sixteen who cannot read and write excluded from employment; they are also obliged to attend school.⁴ In the case of minors over sixteen years of age who cannot furnish a certificate of literacy, regular attendance at day or night school is required as a condition of employment, under the provisions of an act applying to all minors over fourteen years of age passed in 1902.⁵ By an amendment of 1905 it is provided that no age or school certificate shall be approved unless a certificate of birth or baptism or other sworn evidence of age is produced. This provision was designed to check the troublesome connivance of children and parents of the foreign classes to evade the law by false statements concerning the children's ages.⁶

The machinery for enforcing the age and educational requirements of the child-labor laws has been further improved by an act relative to the illegal employment of minors and the duties of truant officers, passed in 1906.⁷ This act increased the penalties for violation of the law and extended the powers of the officials entrusted with enforcement. It provides that "whoever employs a minor under the age of sixteen years, and whoever procures or, having under his control a minor under such age, permits such minor to be employed in violation of the provisions . . . of the revised laws . . . shall for each offence be punished by a fine of not more than three hundred dollars or by imprisonment; and whoever continues to employ a minor . . . after being notified by a truant officer or by an inspector of factories and public buildings, shall for every day thereafter while such employment continues, be punished by a fine of not less than twenty or more than one hundred dollars or by imprisonment for not more than six months." This statute instructs inspec-

³Acts of 1905, Chapter 267.

⁴Acts of 1905, Chapter 320.

⁵Acts of 1902, Chapter 183.

⁶Acts of 1905, Chapter 213.

⁷Acts of 1906, Chapter 499.

tors of factories and public buildings to visit establishments and ascertain whether any minors are employed contrary to the law. It also empowers truant officers to apprehend and take to school without a warrant any minor under sixteen years of age who is illegally employed. Finally, the law authorizes factory inspectors and truant officers to require the production of age and schooling certificates and lists of employed minors for their inspection at any time, and provides for punishment, by a fine of not less than ten or more than one hundred dollars, of any corporation or individual refusing to produce certificates upon demand.

The present provisions for the enforcement of the age and educational restrictions upon the employment of minors are as effective as could well be devised. The enforcement is entrusted primarily to the factory inspectors, of whom there are now fourteen, acting under the direction of the chief of the district police of the state.⁸ The inspectors are aided in their work by the truant officers of the cities and the towns. This system of co-operation between the police and the school officials makes for effective enforcement. The factory inspectors have discovered only very few instances of violation or evasion of the child-labor laws. In their annual reports they have declared repeatedly that the laws are observed most satisfactorily. All the available evidence goes to show that the enforcement of these laws is exceptionally thorough and that cases of violation or evasion are extremely rare.

2. Employment of Women and Minors

The provisions relating to the employment of women and minors have been extended and reinforced since 1900. In 1908 the maximum limit of the weekly work-time for this class of employees was reduced from fifty-eight hours, as fixed in 1892, to fifty-six hours in the case of manufacturing and mechanical establishments; except that in establishments in which employment is by seasons the number of working hours in a week may exceed fifty-six, but not fifty-eight, provided that the total number of working hours in the year shall not exceed an average of fifty-six hours a week for the whole year, excluding Sundays and holidays.⁹ This fifty-six hour limit, it should

⁸There are also thirteen building inspectors, who assist in enforcing the provisions relating to the construction of factories. The enforcement of the sanitary provisions of the labor code is entrusted to the state inspectors of health.

⁹Acts of 1908, Chapter 645.

be observed, does not apply to mercantile establishments, for which the old fifty-eight-hour limit, as fixed in 1900, still holds.¹⁰ The act of that year excepted retail shops from the fifty-eight-hour restriction during Christmas week, but an amendment of 1904 repealed this exception, making the application of the fifty-eight-hour law general throughout the year.¹¹

The maximum limit of ten hours for the daily work-time in manufacturing and mercantile establishments, as first set for factories in 1874 and extended to mechanical establishments in 1883, also remains unchanged.¹² Manufacturing and mechanical establishments are, however, permitted to employ women and minors more than ten hours in one day when that is necessary to provide for a shorter workday on one day of the week, or to make up time lost on a previous day of the same week in consequence of the stopping of machinery. The ten-hour restriction, like the fifty-six-hour week, does not apply to mercantile establishments.

The question of overtime employment for women and minors has been much agitated in recent years. In 1890 it was enacted that no woman or minor should be employed in manufacturing between ten o'clock at night and six o'clock in the morning.¹³ This restriction was not sufficient to satisfy the labor interests. Complaints regarding abuses of overtime work, especially in the textile cities, became loud and insistent. In 1904 a bill prohibiting the employment of women and minors in textile establishments between six o'clock at night and six o'clock in the morning was passed by both branches of the legislature, but was vetoed by Governor John L. Bates. In his veto message¹⁴ the Governor declared that the proposed restriction was not needed to correct any real abuse, and would work hardship to both employers and employed. He asserted that the factories were not run in the evening except when some extraordinary emergency demanded night work in order to fill contracts, and he argued that if the manufacturers were deprived of the right to operate their establishments in the evening when market conditions required it, they would be seriously crippled in competition with manufacturers outside the state. He pointed out that Massachusetts

¹⁰Acts of 1900, Chapter 378.

¹¹Chapter 397 of the Acts of 1904.

¹²See for the present law on this subject Acts of 1902, Chapter 435.

¹³Acts of 1890, Chapter 183.

¹⁴See Acts and Resolves of 1904, pages 594 to 597.

had already gone further than other states in the enactment of labor legislation. The textile industry at that time, he stated, was in no condition to stand further burdens. In 1904 Governor Bates was defeated in his campaign for re-election, and the dissatisfaction caused by this veto in the industrial centers was generally regarded as an important factor in this result. The agitation for the overtime bill was pushed more vigorously than before, and in 1907 the measure became a law. The new law provides that no person and no agency or officer of a person or corporation engaged in the manufacture of textile goods shall employ any minor under eighteen years of age, or any woman, before six o'clock in the morning or after six in the evening.¹⁵

3. Hours of Labor

The nine-hour day established in 1893 for public employees was reduced to eight hours in 1906.¹⁶ Various amendments to prevent evasion of this act were adopted the following year.¹⁷ Another act relating to hours of labor should be cited here, namely, the act of 1907 which provides for one day's rest in seven.¹⁸ This measure prohibits, with certain permitted exceptions, the employment of workers engaged in commercial and industrial operations and in the work of transportation or communication upon the Lord's Day, unless the employee in question is allowed during the six days next following twenty-four consecutive hours without labor.

4. Payment of Wages

In 1906 and 1907 certain minor amendments of the weekly payment act,¹⁹ which dates from 1886, were adopted, and in 1906 new legislation regulating the assignment of wages was passed.²⁰ Methods of extending credit to wage earners had been devised, by means of unlimited power of attorney, which resulted in placing the future earnings of the debtor, without reasonable limit as to time or amount, in the hands of the holder of this power. The law requiring weekly payment had thus been partially nullified. The act of 1906 provided

¹⁵Acts of 1907, Chapter 267.

¹⁶Acts of 1906, Chapter 517.

¹⁷Acts of 1907, Chapters 269 and 570.

¹⁸Acts of 1907, Chapter 577.

¹⁹Acts of 1906, Chapter 427; Acts of 1907, Chapter 193.

²⁰Acts of 1906, Chapter 390.

that no assignment of future wages should be valid for a period exceeding two years from date, nor unless made to secure a debt contracted before the execution of the assignment, nor unless executed in writing in the form prescribed in the act and signed by the assignor in person and not by attorney. It was also provided that a copy of the assignment should be delivered to the assignor and his employer as a condition of the validity of the agreement. This act checked the worst abuses that had arisen in connection with the assignment of wages.

5. *Sanitation*

Various measures proposing additional sanitary requirements for manufacturing establishments have been passed since 1900.²¹ An amendment of the law regulating the manufacture of clothing in tenement houses, passed in 1905, requires every person, firm or corporation doing business with tenement house clothing workers to keep a register of their names and addresses, and to forward a copy of this once a month to the chief of the district police.²²

A noteworthy extension of the machinery for the enforcement of the sanitary provisions of the labor code was made in 1907 by the act providing for the establishment of health districts and the employment of inspectors of health.²³ This act divides the commonwealth into health districts not more than fifteen in number, each under the charge of a state inspector of health acting under the direction of the State Board of Health. These health inspectors are entrusted with the enforcement of the sanitary provisions of the labor code. They are also charged with general supervision of health conditions in their districts. The law orders the inspector to inform himself concerning all influences dangerous to the public health; to gather information concerning the supervision of tuberculosis and other diseases, and to take steps for their eradication; to investigate the conditions of employment in factories, and to call the attention of parents and employers and the State Board of Health to cases of physical unfitness on the part of employed minors. This law promises much for the better enforcement of the labor code and the scientific improvement of the public health.

²¹Acts of 1902, Chapter 322; Acts of 1903, Chapter 475; Acts of 1906, Chapter 260.

²²Acts of 1905, Chapter 238.

²³Acts of 1907, Chapter 537.

6. *Employer's Liability*

The Employer's Liability Law, as enacted in 1887 and amended in minor particulars by several later acts, has not worked to the satisfaction of either employers or employed.²⁴ Employers complain of the large amount of litigation forced upon them and of the tendency of juries to award liberal verdicts against them. Employees assert that the law does not afford the workingman fair and certain compensation for injury. They declare that the method of compensation provided is slow and expensive, since they are denied speedy trials on account of the crowded court dockets, and are obliged to fight not only employers but liability insurance companies, in order to obtain damages under the act. They urge that the present system tends to separate employer and employee and to obstruct the establishment of friendly relations between the two classes.

Numerous proposals for the amendment of the employer's liability act have been introduced in the legislature from time to time. This question was considered by the committee on relations between employer and employee in 1903, and the joint special committee on labor in 1907.²⁵ The former recommended a workmen's compensation act modelled after the British law. This bill has been before the legislature each year since 1904, but has made no progress toward enactment. The majority of the committee of 1907 proposed a measure providing for the voluntary establishment of plans of compensation by employers under the direction of the State Board of Arbitration and Conciliation. This bill was passed by the legislature in 1908.²⁶ The law provides that any employer of labor may submit to the State Board of Arbitration and Conciliation a plan of compensation for persons in his employ, providing for payments to them in the event of injury in the course of their employment, based on a certain percentage of the average earnings of the employees. If approved by the state board, the plan may be put in operation by contract between the employer and his employees, under which the latter shall release the former from legal liability in case of injury and accept instead the compensation provided in the plan. It is, of course, too early to determine to what extent

²⁴Revised Laws, Chapter 106, Sections 71 to 79.

²⁵See report of Committee on Relations Between Employer and Employee, pages 36 to 56. Also Report of the Joint Special Committee on Labor, pages 49 to 76.

²⁶Acts of 1908, Chapter 489.

employers will make use of this permissive enactment. At the present writing no application for the approval of a plan of compensation has been received at the office of the State Board of Arbitration and Conciliation.²⁷ The law was passed in the hope of quieting the agitation for a general workmen's compensation act. It is not likely in any event to accomplish this object.²⁸

7. Board of Arbitration

The act establishing the board of arbitration was modified in 1902 by a provision designed to extend the usefulness of this body in the settlement of industrial controversies. The amended section orders that "if, when the state board has knowledge that a strike or lockout, which involves an employer and his present or former employees, is seriously threatened or has actually occurred, such employer at that time is employing . . . not less than twenty-five persons. . . . the state board *shall* investigate the cause of such controversy and ascertain which party thereto is mainly responsible or blameworthy . . . and *may* make and publish a report finding cause and assigning such responsibility or blame."²⁹ The amended law thus makes the investigation mandatory, while leaving the publication of the report permissive, at the discretion of the board. The original law had provided merely that the board "*may*, if it considers it advisable, investigate," thus leaving the matter of investigation as well as report to the discretion of the board. Some minor amendments of the act defining the powers of the board, which were recommended by the committee on relations between employer and employee of 1903, were adopted in 1904.³⁰ The purpose of the amendment relating to the investigation of strikes was to induce the Board of Conciliation and Arbitration to play the rôle of a bureau of investigation and publicity. The board, however, has not availed itself of this opportunity. It has investigated all strikes as ordered, but has not used the power to publish an immediate report, reserving the publication of its findings for the annual reports.

²⁷November 26, 1908.

²⁸Minor amendments of the Employer's Liability Act have been passed, as follows: Acts of 1906, Chapter 370; Acts of 1908, Chapter 457 and Chapter 446.

²⁹Acts of 1902, Chapter 446.

³⁰Acts of 1904, Chapter 313. Also report of Committee on Relations Between Employer and Employee, pages 16 and 17.

II. NEW SUBJECTS OF LEGISLATION ³¹1. *Free Employment Bureaus*

In 1906 an act was passed providing for the establishment and maintenance of free employment offices.³² These offices were to be opened under the direction of the chief of the Bureau of Labor Statistics, in such cities as might be selected by him, "for the purpose of bringing together those who seek employment and those who desire to employ." The expense to be incurred under the act was limited to five thousand dollars. The first office was opened in Boston December 3, 1906. The establishment of offices outside of Boston during that year was prevented by the small appropriation. In 1907, however, an appropriation of twenty-five thousand dollars for employment bureaus was passed, and offices were opened at once in Springfield and Fall River. The Boston office during the first year of its operation registered 34,950 individuals in search of employment, and filled positions for 10,701. There was a daily average of forty-seven positions secured for applicants,³³ while the registrations for employment averaged 148 per day and the number of requests from employers averaged 111. The average cost per position secured was \$1.35. The chief of the Bureau of Labor Statistics expresses the opinion that the Boston office has justified its existence and has passed the experimental stage.

2. *Industrial Education*

The first step in a new movement for the promotion of industrial education was taken in 1905, when a commission on industrial and technical education was authorized by joint resolve of the legislature.³⁴ The commission made recommendations concerning the extension of industrial education along two lines, through the existing public school system and through independent industrial schools.³⁵ First, the commission recommended that cities and towns

³¹Many statutes dealing with new matters of legislation that affect the interests of the working class must be passed over with mere mention, since they hardly fall within the scope of labor legislation, strictly interpreted. Such are the laws relating to juvenile delinquency, establishing a juvenile court in Boston, providing for the licensing of newsboys, establishing medical inspection in the public schools, regulating the business of making small loans, and providing retirement pensions for teachers and public officials.

³²Acts of 1906, Chapter 435. Amended by Acts of 1908, Chapter 485.

³³First Annual Report of the State Free Employment Offices, 1907, page 12.

³⁴Resolves of 1905, Chapter 94.

³⁵Report of the Commission, April, 1906.

so modify the work in elementary schools as to include instruction and practice in the elements of productive industry, including agriculture and mechanic and domestic arts; that the work in the high schools be modified so that the instruction in mathematics, sciences and drawing show the practical relation of these subjects to industrial life with special reference to local industries; that all towns and cities provide new elective industrial courses in high schools and instruction in the principles of agriculture and the domestic and mechanic arts; that evening courses be provided for persons already employed in trade, and part-time day classes for minors employed the remainder of the day. Second, the commission submitted a draft of a new law to provide further for industrial education. The bill as drafted by the commission provided for an unpaid commission of five persons, to be known as the Commission on Industrial Education, to serve for a term of five years. The commission was charged with the duty of extending the investigation of methods of industrial training and of local needs, assisting in the introduction of industrial education in independent schools, providing for lectures on the importance of industrial education, visiting and reporting upon all special schools in which such education is carried on, and initiating and superintending the establishment and maintenance of industrial schools in various centers of the state. The bill also provided for the establishment of independent industrial schools and of evening courses in the cities and towns with subsidies from the state. The bill was passed by the legislature with an amendment shortening the term of the commission from five to three years.³⁶

The motives that have brought about this far-sighted provision for the systematic development of industrial education are partly commercial, partly educational, partly sociological. In the first place, the conviction has gained ground that, if the state is to hold its own with its competitors in the industrial field, careful provision must be made for specialized trade education. The example of Germany in fostering economic growth through elaborate attention to vocational training has been studied and imitated. Industrial education has been adopted as the indispensable means of increasing the efficiency of the labor force of the state and thus heightening the

³⁶Acts of 1906, Chapter 505; an amending act passed in 1908, Chapter 245, extends the term of the commission to five years, as originally proposed.

competitive power of the state's industries. In the second place, the fact has been recognized that the instruction in the public schools does not meet the needs of the great mass of the population. The majority of the pupils now leave school when they reach the age limit of compulsory attendance, namely, fourteen years. Investigation shows that they do this chiefly because their parents are dissatisfied with the program of study and feel that it would be a waste of time to continue. It is probable that a large proportion of these children would stay in school if they were offered courses in trade education. As it is, many of them take up casual, unskilled employments, in which they remain stranded, finding themselves at eighteen or nineteen years no better off in earning power than when they left school. The decline of the apprentice system has deprived them of the chance to learn a skilled trade in the old way. The home, furthermore, no longer gives the boy the same contact with practical life and vocational activity that it formerly furnished. The new program of industrial education is designed to fill the gap thus left open by changes in the shop and the home. Finally, the truth has been realized that economic incompetency, resulting from lack of definite preparation for self-supporting employment, is in a large measure responsible for pauperism and other social ills. The surest way to reduce these evils is to give young people opportunities for practical preparation for earning a livelihood. Industrial education strikes at the roots of many symptoms of economic mal-adjustment and social discontent.

This movement is a fundamental social reform big with promise of wide-reaching results. It promises to heighten the industrial efficiency of the workers of the state and the competitive ability of its industries, to increase the practical utility of the public school system, and to promote a better adjustment of social relationships in general.

3. Savings Bank Insurance

The savings bank insurance law of 1907 is one of the most interesting legislative experiments enacted in any state since the opening of the twentieth century. It embodies a unique plan for the solution of the perplexing problems of workingman's insurance and old-age pauperism. The act provides that any savings bank may establish an insurance department by a two-thirds vote of its

trustees, upon the condition of complying with certain requirements laid down in the act.³⁷ In the first place, a special expense guaranty fund of not less than five thousand dollars, advanced in cash, and a special insurance guaranty fund of not less than twenty thousand dollars must be placed at the risk of the insurance department. A joint certificate is then issued by the State Insurance Commissioner and the State Bank Commissioner, declaring the insurance department established. Before doing business the department must also take out a license to issue policies and make annuity contracts from the Insurance Commissioner. The bank may then issue policies upon the lives of persons and grant or sell annuities with all the rights, powers and privileges, and subject to all the duties, liabilities and restrictions in respect to the business of life insurance, conferred or imposed by the state laws.

Two important restrictions are laid down for the regulation of the savings bank insurance departments, namely: 1. No bank shall write any life policies for more than five hundred dollars, or any annuity contract for more than two hundred dollars a year; 2. The banks shall not employ solicitors or house-to-house collectors. The business of issuing insurance through the savings banks is placed under the supervision of a board of seven trustees controlling the general insurance guaranty fund. The services of a state actuary and assistants, whose salaries are paid by the commonwealth, are placed at the disposal of the trustees. The state thus contributes largely toward the expense of administering savings bank insurance. The general guaranty fund is furnished by contributions from savings and insurance banks in amounts equal to four per cent of the receipts from premiums and the sales of annuities.

This law went into effect June 26, 1907. The first bank to establish an insurance department was the Savings Bank of Whitman. The People's Savings Bank of Brockton has also taken out an insurance certificate. Several banks have become agencies for the Whitman and Brockton banks. Large manufacturing and commercial houses, people's institutes, social settlements and trade unions have also opened agencies. The policies offered are of several kinds, providing straight life insurance, endowment, and annuities. To illustrate: If a man beginning at twenty-one years

³⁷Acts of 1907, Chapter 561. The passage of this act was recommended by a recess committee of insurance 1906.

of age deposits with the bank eighty-nine cents each month until the age of seventy-five, the bank insures his life for five hundred dollars. Or, if a man twenty-one years old pays \$1.40 a month to the bank, he will, at the age of sixty-five years, be entitled to an annuity of two hundred dollars, continuing throughout life; in case of his death before the age of sixty-five his family or representatives will receive an amount equal to all premiums paid by him.

This attempted solution of the insurance and pension problem is very different from the methods adopted in Germany and Great Britain, as embodied in the German old-age insurance act of 1889 and the British old-age pension act of 1908. "Unlike Germany," says Mr. Louis D. Brandeis, "Massachusetts seeks to secure for her wage-earners voluntary instead of compulsory old-age insurance. Unlike England, Massachusetts plans to make her superannuated workingmen independent instead of dependent; to relieve instead of further burden general taxation. Her aim is to make the opportunities for saving money as numerous as the opportunities for wasting it; to make saving popular by giving to the saver all that his money can earn."³⁸

The success of this insurance plan depends on the possibility of educating working people to make proper use of the opportunities which it provides. The interested coöperation of employers is also required. If the educational propaganda organized by the promoters of the savings bank insurance plan shall attain the end sought, a unique contribution will be made toward the solution of one of the most complicated problems of social legislation.

CONCLUSION

The recent new legislation which has been described,—providing for free employment bureaus, industrial schools and savings bank insurance,—is in full harmony with the policy underlying the development of Massachusetts labor legislation in the past. The new laws hold out better opportunities of self-help for the working class. Indeed, they initiate a higher stage in the development of this body of legislation. Previous legislation has been largely prohibitive, restrictive, and regulative in character. It has aimed to abolish certain evils in the industrial environment of the working

³⁸Article on Massachusetts' substitute for old-age pensions in "The Independent," July 16, 1908.

class, to remove disabilities attaching to the position of the laborer in his relation to the employer, and in particular to protect women and children in the industrial struggle. The new legislation goes further. It is constructive, creative and positive in character. It is designed to foster self-help, not merely by freeing the worker from economic handicaps, but by creating for him new economic opportunities. Thus the act establishing free employment bureaus increases the chance of finding work, the industrial education acts furnish opportunity of vocational training, and the savings bank insurance act supplies facilities for successful saving. These measures spell work, skill, thrift—employment, efficiency, and independence. The effect of such laws must be to make for the strengthening of individual character, the promotion of family solidarity, and the development of a finer type of industrial democracy.